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5 and

MARK S. BOSCO, ESQ.

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9 Wells Fargo Bank, NA dba America's Servicing Company

10 08-72907

11 **UNITED STATES BANKRUPTCY COURT**  
12 **SOUTHERN DISTRICT OF NEVADA**  
13

14 In Re:

08-13487-bam

15 Maria A. Mariscal

MS Motion No. 26

Order entered 6/26/09

16  
17 Debtor

Chapter 13

18  
19 **DECLARATION RE BREACH OF CONDITION**

20 STATE OF SC )  
21 COUNTY OF York )ss.

22 I, LeeAnn Anderson declare and state:

23 1. As to the following facts, I know them to be true of my personal knowledge, and if called  
24 upon to testify in this action, I could and would testify competently thereto.

25 2. I am an employee of Wells Fargo Bank, NA dba America's Servicing Company, Secured  
26 Creditor herein, and am most familiar with the current bankruptcy case.

1           3.       The real property subject to the Trust Deed is commonly described as 109 Linden St. ,  
2 Henderson, NV 89015 and legally described as follows:

3           Lot ONE HUNDRED EIGHTY (180), in Block SIX (6) of HENDERSON NO. 4, as shown by Map  
4           thereof on File in Book 5 of Plats, Page 15, in the Office of the County Recorder of Clark County,  
5           Nevada

6           4.       I have examined the document entitled "Order Regarding Adequate Protection", which was  
7           entered by the Court on June 26, 2009. I represent my personal knowledge as to whether the Debtor has  
8           complied with the requirements of said Order.

9           5.       Pursuant to the aforementioned Order, the Debtor would have fifteen (15) days from the  
10          date of this Declaration in which to cure the delinquencies due. If upon the 16<sup>th</sup>) day, Debtor has failed to  
11          so cure those delinquencies, the automatic Stay Order would be vacated and extinguished as to this Secured  
12          Creditor.

13          6.       As of the date of this Declaration, the Debtor has not made the payments as required by the  
14          aforementioned Order. The Debtor is presently past due as follows:

15               2 Monthly Payments(s) at \$1,415.95: \$2,831.90

16               (June 1, 2010 - July 1, 2010)

17               2 Late Charge(s) at \$62.40     \$124.80

18               (June 1, 2010 - July 1, 2010)

19               Attorneys Fees \$150.00


20               Total   \$3,106.70

21          7.       Debtor is responsible for the subsequent payments that will come due on the loan.

22               **PARTIAL TENDERS WILL NOT BE ACCEPTED**

23  
24          8.       Due to Debtor's failure to timely and properly comply with the Order as set forth  
25          hereinabove, Secured Creditor has been forced to incur additionally attorneys' fees to obtain relief from the  
26          Stay Order to take possession of its real property.

**GREGORY L. WILDE, ESQ.**  
**WILDE & ASSOCIATES**  
**212 South Jones Boulevard**  
**Las Vegas, Nevada 89107**

  
\_\_\_\_\_  
LeeAnn Anderson  
VP Loan Documentation

Teresa Diaz-Cochran  
Notary Public in and for said  
State and County





Entered on Docket  
June 26, 2009

*Bruce A. Markell*

Hon. Bruce A. Markell  
United States Bankruptcy Judge

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Wells Fargo Bank, NA dba America's Servicing Company  
08-72907 / 1115046160

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In Re:

Maria A. Mariscal

BK-S-08-13487-bam

MS Motion No.

Date: 5/5/09

Time: 1:30 P.M.

Chapter 13

Debtors.

**ORDER RE ADEQUATE PROTECTION**

Secured Creditor's Motion for Relief from the Automatic Stay having come on for hearing in the above-entitled Court, all appearances as noted on court record, and based upon all the papers and pleadings on file herein and good cause appearing therefor.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the debtor will cure the post-petition arrearages currently due as follows:

|  |              |
|--|--------------|
| 5 Monthly Payments at \$1,563.03<br>(December 1, 2008 – April 1, 2009)         | \$ 7,815.15  |
| 4 Monthly Late Charges at \$70.42 each<br>(December 16, 2008 – March 16, 2009) | \$ 281.68    |
| Motion Filing Fee  | \$ 150.00    |
| Attorneys Fees   | \$ 750.00    |
| Total Arrearages   | \$ 8,996.83  |
| Less immediate payment   | -\$ 7,936.33 |
| Total Arrearages   | \$1,060.50   |

The above arrearage shall be paid in six (6) monthly installments of \$176.75. These payments shall be in addition to the regular monthly payment and shall be due on or before the 20th day of the month commencing with the May 20, 2009 payment and continuing throughout and concluding on or before October 20, 2009.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Secured Creditor shall give Debtors at least five business days' notice of the time, place and date of sale.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Debtor shall resume and maintain the regular monthly payments in a timely fashion, outside of any Bankruptcy Plan, beginning with the February 1, 2009 payment, on Secured Creditor's Trust obligation, encumbering the subject Property, generally described as 109 Linden St., Henderson, NV 89015, and legally described as follows:

Lot ONE HUNDRED EIGHTY (180), in Block SIX (6) of HENDERSON NO. 4, as shown by Map thereof on File in Book 5 of Plats, Page 15, in the Office of the County Recorder of Clark County, Nevada

IT IS FURTHER ORDERED, ADJUDGED and DECREED that if the Debtors fail to make any payments as stated in this Order, or fail to maintain the regular monthly payments on Secured Creditor's Trust Deed obligation, allowing the normal grace period, then Secured Creditor may file and serve upon Debtors and Debtors' counsel, a fifteen (15) Day Notice Declaration Re Breach of Condition. For each such Declaration Re Breach of Condition filed, there shall be assessed an attorney fees of \$100.00, to be paid by the Debtors upon any reinstatement. If upon the sixteenth (16th) day Debtors have failed to cure the delinquency, then Secured Creditor may submit to this Court an Order vacating the automatic stay as to

MAY 19 2009 MON 11:46 AM

1 Secured Creditor, and Secured Creditor may thereafter proceed with foreclosure proceedings upon the  
2 subject Property, pursuant to applicable State Law, and take any action necessary to obtain complete  
3 possession thereof.

4  
5 Submitted by:

6 WILDE & ASSOCIATES

7  
8 By

*See page 4*  
9 GREGORY L. WILDE, ESQ.  
10 Attorneys for Secured Creditor  
208 South Jones Boulevard  
Las Vegas, Nevada 89107

11 APPROVED AS TO FORM & CONTENT:

12  
13 Kathleen A Leavitt

14 By

15 Kathleen A Leavitt  
16 Chapter 13 Trustee  
302 E Carson #300  
17 Las Vegas, NV 89101

David M. Crosby

By

David M. Crosby  
Attorney for Debtors  
711 South 8th Street  
Las Vegas, NV 89101

18 Nevada Bar No. 3499  
19  
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22  
23  
24  
25  
26

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4  
5 Submitted by:

6 WILDE & ASSOCIATES

7  
8 By \_\_\_\_\_

9 **GREGORY L. WILDE, ESQ.**

10 Attorneys for Secured Creditor

11 208 South Jones Boulevard

12 Las Vegas, Nevada 89107

13 APPROVED AS TO FORM & CONTENT:

14 Kathleen A Leavitt

David M. Crosby

15 By \_\_\_\_\_

By \_\_\_\_\_

16 Kathleen A Leavitt

17 Chapter 13 Trustee

18 302 E Carson #300

19 Las Vegas, NV 89101

David M. Crosby

Attorney for Debtors

711 South 8th Street

Las Vegas, NV 89101

20 Nevada Bar No. \_\_\_\_\_

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**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF NEVADA**

In Re:

Maria A. Mariscal

Debtor.

08-13487-bam

MS Motion No. 26  
Order entered June 26, 2009  
Chapter 13

**CERTIFICATE OF MAILING OF**  
**DECLARATION RE BREACH OF CONDITION**

1. On 8/5/2010 I served the following document(s):

DECLARATION RE BREACH OF CONDITION

2. I served the above-named document(s) by the following means to the persons as listed below:

X a. ECF System

Kathleen A Leavitt  
courtsecf3@las13.com  
Trustee



David M. Crosby  
info@crosby.lvcoxmail.com  
Attorney for Debtor

**X b. United States mail, postage fully prepaid:**

Maria A. Mariscal  
109 Linden St.  
Henderson, NV 89015  
Debtors

David M. Crosby  
711 South 8th Street  
Las Vegas, NV 89101  
Attorney for Debtor

☐ **c. Personal Service** (List persons and addresses. Attach additional paper if necessary)

I personally delivered the document(s) to the persons at these addresses:

☐ 1. For a party represented by an attorney, delivery was made by handing the document(s) to the attorney's office with a clerk or other person in charge, or if no one is charge by leaving the document(s) in a conspicuous place in the office.

N/A

☐ 2. For a party, delivery was made by handing the document(s) to the party or by leaving the document(s) at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.

N/A

☐ **d. By direct mail (as opposed to through the ECF System)**

*(List persons and email addresses. Attach additional paper if necessary)*

Based upon the written assignment of the parties to accept service by email or a court order. I caused the document(s) to be sent to the persons at the mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ **e. By fax transmission** *(List persons and fax numbers. Attach additional paper if necessary)*

1 Based upon the written assignment of the parties to accept service by fax transmission or  
2 a court order. I faxed the document(s) to the persons at the fax numbers listed below. No error  
3 was reported by the fax machine that I used. A copy of the record of the fax transmission is  
4 attached.

5  
6 ☐ f. By messenger *(List persons and addresses. Attach additional paper if necessary)*  
7

8 I served the document(s) by placing them in an envelope or package addressed to the  
9 persons at the addresses listed below and providing them to a messenger for service.

10 *( A declaration by the messenger must be attached to this Certificate of Service).*  
11

12 I declare under penalty of perjury that the foregoing is true and correct.  
13

14 Signed on : 8/5/10 *Jamie Miller*  
15 Wilde & Associates  
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